



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:	)	Before the Examiner:
B. Thomas Barker et al.	)	James L. Swiger III
	)	
U.S. Patent No. 7,727,261	)	Group Art Unit: 3775
Based on U.S. Serial No. 10/731,210	)	
	)	
Issued June 1, 2010	)	Atty. Ref. No.: PC398.08
	)	/MSDI-1005
MULTI-AXIAL BONE	)	
SCREW ASSEMBLY	)	

**REQUEST FOR CERTIFICATE OF CORRECTION**

**Attention: Certificate of Corrections Branch**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

A Certificate of Correction is respectfully requested under 37 C.F.R. § 1.322(a) to correct certain errors of a clerical or typographical nature that appear in the above-identified patent as issued. The exact location where the errors occur and the necessary corrections are indicated on the attached copy of Form PTO/SB/44.

Entry of the Certificate of Correction is respectfully requested as a condition for granting of the Petition under 37 CFR § 1.78(a)(3) filed concurrently to accept an unintentionally delayed priority claim under 35 USC § 120. The Certificate of Correction fee in the amount of \$100 is submitted herewith. No additional fees are believed to be required for entry of the Certificate of Correction. However, should any additional fees be deemed necessary, please charge any such fees to Deposit Account No. 12-2424.

Respectfully submitted,

*Brad A. Schepers*

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By: \_\_\_\_\_

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**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**Page 1 of 1

PATENT NO. : 7,727,261

APPLICATION NO.: 10/731,210

ISSUE DATE : June 1, 2010

INVENTOR(S) : B. Thomas Barker et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Insert the following paragraph on page 1 immediately after the Title of the invention and immediately before the section heading FIELD OF THE INVENTION:

**CROSS REFERENCE TO RELATED APPLICATIONS**

This application claims priority to and is a continuation of U.S. Patent Application Serial No. 09/940,902 filed August 28, 2001, now U.S. Patent No. 6,660,004, which is a continuation of U.S. Patent Application Serial No. 09/387,991 filed September 1, 1999, now U.S. Patent No. 6,280,442.

**MAILING ADDRESS OF SENDER (Please do not use customer number below):**

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*



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B. Thomas Barker et al.	)	James L. Swiger III
	)	
U.S. Patent No. 7,727,261	)	
Based on U.S. Serial No. 10/731,210	)	Group Art Unit: 3775
	)	
Filed: December 9, 2003	)	Atty. Ref. No.: PC398.08
	)	/MSDI-1005
MULTI-AXIAL BONE	)	
SCREW ASSEMBLY	)	April 13, 2011

**RENEWED PETITION UNDER 37 CFR § 1.78(a)(3) TO ACCEPT AN  
UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 35 USC § 120**

**Mail Stop PETITIONS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

The Petitioner respectfully requests acceptance and entry of this renewed Petition in satisfaction of the provisions set forth in 37 CFR § 1.78(a)(3) to accept an unintentionally delayed priority claim under 35 USC § 120. Payment in the amount of \$1,410 for the requisite surcharge set forth in 37 CFR § 1.17(t) was previously submitted by the Petitioner via the original Petition filed with the U.S. Patent and Trademark Office on May 25, 2010.

Additionally, the Petitioner also requests acceptance and entry of the accompanying Certificate of Correction submitted herewith as a condition for granting of the Petition under 37 CFR § 1.78(a)(3), along with payment in the amount of \$100 for the requisite fee.

No additional fees are believed to be required for this Petition and the Certificate of Correction. However, should any additional fees be deemed necessary, please charge any such fees to Deposit Account No. 12-2424.

**IN THE SPECIFICATION:**

Please insert the following paragraph on page 1 immediately after the Title of the invention and immediately before the section heading FIELD OF THE INVENTION:

**CROSS REFERENCE TO RELATED APPLICATIONS**

This application claims priority to and is a continuation of U.S. Patent Application Serial No. 09/940,902 filed August 28, 2001, now U.S. Patent No. 6,660,004, which is a continuation of U.S. Patent Application Serial No. 09/387,991 filed September 1, 1999, now U.S. Patent No. 6,280,442.

### **REMARKS**

The Petitioner previously submitted a Petition Under 37 CFR § 1.78(a)(3) To Accept an Unintentionally Delayed Priority Claim Under 35 USC § 120, as filed with the U.S. Patent and Trademark Office on May 25, 2010. The Petition was dismissed via a Decision dated January 5, 2011 on the grounds that “[t]he application issued as a patent before a decision was reached on the petition under 37 CFR 1.78(a)(3)”, and that “submission of a certificate of correction (accompanied by the \$100.00 fee) is required as a condition for granting the petition under 37 CFR 1.78(a)(3)”. The Petitioner was thereby instructed that “before a petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3), a completed certificate of correction, and the \$100.00 fee as noted above, must be submitted”.

In accordance with the Decision on Petition dated January 5, 2011, the Petitioner respectfully requests acceptance and entry of this renewed Petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed priority claim under 35 USC § 120, the accompanying Certificate of Correction, and the requisite \$100.00 certificate of correction fee remitted herewith.

### **Statement of Facts**

The procedures established by the Director for accepting an unintentionally delayed priority claim under 35 USC § 120 are set forth in 37 CFR § 1.78(a)(3), and include submission of: (I) a petition to accept an unintentionally delayed priority claim under 35 USC § 120; (II) the reference required by 35 USC § 120 and 37 CFR § 1.78(a)(2) to the prior-filed application unless previously submitted; (III) the surcharge set forth in 37 CFR § 1.17(t); and (IV) a statement that the entire delay between the date the claim was due under 37 CFR § 1.17(a)(2)(ii) and the date the claim was filed was unintentional.

The Petitioner notes that a priority claim under 35 USC § 120 was presented in an amendment previously filed with the U.S. Patent and Trademark Office on March 23, 2006 by Christopher A. Brown accompanied by the following remarks:

The amendment to the specification noted above merely identifies the parent case to which this application claims priority. As noted above, this amendment to the specification was intended to have been filed earlier, but inadvertently was not. After reviewing the present Office Action and reviewing

the file, the undersigned noted that no filing receipt had been received. A copy of the filing receipt was requested from the PTO, and was recently received. The filing receipt identified U.S. Application Serial No. 09/940,902 (now U.S. Patent No. 6,660,004) as a parent case. The amendment to the specification noted above is believed to be proper because a priority claim was noted in the filing receipt, and thus the benefit of the prior application should be granted and the amendment entered.

If the Examiner believes that entering the amendment to the specification and granting the benefit of the filing dates of one or both parent applications is inappropriate, then it is respectfully requested that the Examiner consider this paper as a petition under 37 C.F.R. §1.78(a)(3). The reference to the prior applications required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2) is submitted above. Any surcharge required pursuant to 37 C.F.R. §1.17(t) is authorized to be charged to Deposit Account 23-3030. Additionally, the undersigned attorney of record states that the entire delay between the date the claim for benefit was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim for benefit was filed was unintentional. As discussed above, the claim was intended to have been filed with a preliminary amendment, and it was discovered that the claim had not been filed when the present file was reviewed in connection with preparing a response to the present Office Action. Thus, it is believed that the present amendment of the specification and claim to benefit is proper, either because it had been previously made, or on the basis of the facts noted above.

See page 8, line 6 to page 9, line 4 of the Amendment filed on March 23, 2006.

It is not clear from the record whether the priority claim set forth in the Amendment filed with the U.S. Patent and Trademark Office on March 23, 2006 (hereafter "the Amendment") was officially entered. However, the Petitioner notes that even if the priority claim presented in the Amendment was not officially entered, as set forth on page 8, lines 15-18 of the Amendment, the representative requested that the submission be treated as a Petition under 37 CFR § 1.78(a)(3). The Petitioner further notes that the previous submission presented in the Amendment is believed to have fully complied with the requirements of 37 CFR § 1.78(a)(3), including the priority reference required by 35 USC § 120 and 37 CFR § 1.78(a)(2) to the prior-filed applications (see page 2, lines 1-8 of the Amendment); the surcharge set forth in 37 CFR §1.17(t) (see page 8, lines 19-20 of the Amendment including an authorization to charge any fee due to Deposit Account 23-3030); and a statement that the entire delay between the date the claim was due under 37 CFR § 1.17(a)(2)(ii) and the date the claim was filed was unintentional (see page 8, line 20 to page 9, line 4 of the Amendment).


**Petition Under 37 CFR § 1.78(a)(3) to Accept an Unintentionally Delayed Priority Claim**

Although the previous submission set forth in the Amendment filed with the U.S. Patent and Trademark Office on March 23, 2006 is believed to have constituted a Petition in compliance with 37 CFR § 1.78(a)(3) to accept an unintentionally delayed priority claim under 35 USC § 120, as a precaution, the current renewed Petition is submitted to request acceptance of the unintentionally delayed priority claim set forth above under 35 USC § 120 in the event that the previous Petition is found to be ineffective. The current renewed Petition is believed to satisfy the provisions set forth in 37 CFR § 1.78(a)(3), including the reference required by 35 USC § 120 and 37 CFR § 1.78(a)(2) to the prior-filed application (see page 2 of the current Petition); the surcharge set forth in 37 CFR § 1.17(t) (see the attached payment of \$1,410); and the Petitioner hereby states that the entire delay between the date the priority claim was due under 37 CFR § 1.17(a)(2)(ii) and the date the priority claim was filed was unintentional.

### CONCLUSION

The Petitioner believes that the requirements set forth in 37 CFR § 1.78(a)(3) for submitting the above-identified unintentionally delayed priority claim under 35 USC § 120 have been satisfied. Accordingly, submission of the priority claim is believed to be proper, and a decision granting this renewed Petition and entry of the amendment to the priority claim set forth above in the subject application is respectfully requested.

Respectfully submitted,



By: \_\_\_\_\_

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